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C O N F I D E N T I A L SECTION 01 OF 03 ADDIS ABABA 001645

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DEPARTMENT FOR AF DAS YAMAMOTO AND AF/E
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SUBJECT: ETHIOPIA: PROSECUTION STRUGGLING TO MAKE A FOCUSED
CASE IN OPPOSITION TRIAL

REF: ADDIS ABABA 1539

Classified By: Charge Vicki Huddleston for reasons 1.4 (b) and (d).

¶1. (C) SUMMARY: The prosecution is wrapping up the video phase of evidence in its case against detained opposition Coalition for Unity and Democracy (CUD) leaders, independent journalists and civil society representatives. Following the demonstration of lively internal debates among CUD leadership regarding the decision to not enter parliament (reftel), the prosecution moved on to show the CUD party leadership testing public opinion for such a move during crowded and animated public rallies in August 2005. Though supporters appeared to be fully behind the party leadership, the CUD asked for restraint and for followers to remain peaceful. In an attempt to demonstrate cause and effect, the prosecution then presented police recordings of the protests and riots of June and November 2005 in Addis Ababa. Though no defendant appeared in the riot tapes, these videos were intended to portray the effects of CUD instigation. There has been no evidence presented to date that shows the CUD calling for such violent upheaval) only peaceful stay at home strikes. Prosecutors announced their intention June 12 to withdraw seven of 24 cassettes in response to the request by the court to focus on relevant material. This suggests the approaching witness presentation portion of the trial will be critical for the prosecution's case. END SUMMARY.

DEFENDANTS ADDRESS HEALTH MATTERS

¶2. (U) Defendants present in court continue to appear healthy and in good spirits. However, several defendants have missed court appearances due to health related issues in the last two weeks. Notably, Maj. Getachew Mengiste asked for and was granted permission by the judge to miss several days as he was required to have surgery for what he described as a life threatening illness. Pregnant journalist Serkalem Fassil is reportedly in the hospital for delivery of her baby. A few others have been out of court hearings for unknown health related reasons. During the last two weeks, there seems to have been an informal loosening of the rules prohibiting defendants from speaking with the public. As long as conversations are kept short and discreet, defendants have been permitted to share verbal exchanges with friends and family.

¶3. (U) International observers continue to attend all sessions. In addition to USG rep, the European Union and United Nations have representatives present every day, as

well as a rotation of representatives from various European embassies. In addition, a Lawyers Without Borders (LWOB) representative from the US has arrived and is attending the trial with a local LWOB attorney.

THE PRESS IS GIVEN SOME FREEDOM

14. (C) On June 2, defendant and former CUD party Vice Chairperson Bertukan Medeksa raised the issue of press coverage of the trial with the judges. She complained that the local press coverage has been incomplete, simply stating the charges put forth by the prosecution and not reporting on the evidence presented in court. She asked the judge to intervene with state media to alter its reporting methods. Though the prosecution objected, the court overruled them and instructed the Ethiopian Television (ET) and print journalists in the courtroom that they must report a more well-rounded view of the day's proceedings, including what evidence is presented. (NOTE: Lead prosecutor Shimelis Kemal maintains the title of General Manager of the GoE agency that licenses private broadcast stations) which was his full-time occupation prior to assuming the prosecutor role in this case.) The judge qualified this by ordering that media not express criticism or judgments in their reporting. The ET reporter present in court later revealed to Poloff that such a ruling in a political trial is very unusual and the extent of reporting on such trials is usually very restricted.

PROSECUTION NARROWING THE EVIDENCE

ADDIS ABAB 00001645 002 OF 003

15. (C) As described in reftel, prosecutors continue their presentation of the evidence by outlining those defendants involved in the day's evidence and the charges that it supports. Much of this involves highlighting statements made by the defendants in the videos. However, increasingly the prosecutor is using quotes that appear to Poloff and other international observers to be drawn out of context in order to support the prosecution. This tactic is undermined when the court later hears the context of the entire video and how these comments do not seem to sustain the prosecution's arguments.

16. (C) There has been an increasing sense in the last two weeks that the bench is seeking to better focus the evidence presented. In addition to the visual cues the judges have been demonstrating - being inattentive to the videos shown and seeming often uninterested or bored) the prosecutor has been asked on a few occasions if future videos or portions of videos are relevant. This culmination of this trend was the prosecution's request to the court to withdrawn 7 of the 24 videos originally submitted on the evidence roster. This would reduce the remaining videos from 9 to 2, following which the prosecution will move onto the audiocassette portion of the evidence. Though the defense had previously objected to shortening the video phase of evidence, they did not protest.

CUD PLAYS TO THE CROWD

17. (U) Video evidence presented May 29) June 1 featured public rallies held by the CUD in various parts of Addis Ababa in August 2005. Despite the fact that only a few defendants appeared on these tapes, the prosecutor presented this as evidence against all of the 39 defendants who are CUD members. Prosecutors indicated that this evidence was not to be used against the civil society representatives or journalists.

18. (U) The crowds that gathered for the rallies shown in these videos were very large, numbering in the thousands. As the crowds were large and the video shot from a distance, it was not actually possible to see the defendants clearly, though their voices were identified. The overall purpose of this rally seemed to be to build public support for the CUD's idea of not joining parliament. Speakers repeatedly queried the crowd if they have their support (e.g. "Does joining the parliament just give the EPRDF government legitimacy?") yes; "Does joining imply acceptance of election results?") yes; "Is it more useful to join the parliament and struggle?") no). Most of the speeches by the CUD representatives contained the standard party rhetoric heard around the period of these videos: votes in the May 2005 election were stolen from them and that the peaceful struggle against this injustice must continue. During the course of the speeches given, the crowds repeatedly interrupted with singing (patriotic and religious songs), chanting and cheering. In general the crowds were very jubilant and responsive to the speakers, but the videos showed basically peaceful events.

RECALLING THE RIOTS OF 2005

19. (U) The videos presented as evidence on June 2 and 8 contained footage taken by federal police of the riots that took place in Addis Ababa in June and November of 2005, respectively. While the tape of the June protests had a good deal of footage of protesting students at universities and colleges, a burning police vehicle and many city buses with broken out windows, there was very limited conflict between federal police and protesters. The video of the November riots, by contrast, showed several clashes between rock throwing youth and the anti-riot brigades of the federal police. Apart from a few clips of police attacking rioters, most of the footage was of crowds of rioters advancing on groups of police officers in riot gear. This footage was interspersed with interviews with police officers injured during the rioting. Some interviews were with police on the street with small abrasions on the head or arms, while others were with members of the police force hospitalized from their injuries. As in the June footage, the November recordings showed a great deal of damage to public property, including buses, buildings, and police cars.

ADDIS ABAB 00001645 003 OF 003

110. (C) In his presentation of these videos, the prosecutor claimed that these tapes were evidence against all defendants, including the civil society members and journalists. The defense for the Action Aid representatives objected to this, saying his clients had nothing to do with these events, but the judge allowed it. The prosecutor claimed that the videos demonstrated that the CUD was unlawfully "instigating the public" and "called on the public to stand up against government forces." Despite the shock value, the tapes did little to directly implicate the CUD or other defendants in the violence. In fact, the only instance in which a CUD member appeared in these videos was a brief clip of Dr. Hailu Araya speaking for a few minutes with two young men outside the walls of Addis Ababa University during the June protests. Though there was no audio, he was not visibly urging the protesters on and did not address the crowd.

COMMENT: STILL WAITING TO SEE THE EFFECT OF THE CAUSE

111. (C) As the trial now approaches the end of the video phase of evidence, it becomes increasingly apparent that the bench is exhausted by the many hours of tape shown in court. The judges and the prosecution continue to listen to the English translation during much of the presentation of videos, apparently to monitor what it is that the

international community is hearing. To date, the prosecution has clearly demonstrated to the international community that the CUD party was unwilling to accept the results of the May 2005 election. They have also shown the damaging results of the June and November protests (to government personnel and property). However, it remains unclear, according to the international observers attending the trial, how the prosecution plan to connect point A to point B. In other words, though we have seen unquestionable evidence that the CUD party leaders were unhappy about the election and had strong backing from their constituents, we have not yet seen any deviation from the stated theme of the CUD's call for "peaceful struggle." The burden will fall on audiocassettes, written documents and witness testimony to link the defendants more persuasively with the charges they face.

HUDDLESTON